

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD P. VANCIL and DEBORAH Y.
VANCIL, husband and wife,

Plaintiffs,

v.

FIDELITY NATIONAL TITLE INSURANCE
CO., a corporation; U.S. BANK N.A., a
Delaware corporation, as Trustee for Merrill
Lynch Mortgage Investors Trust, Mortgage Loan
Asset-Backed Certificates, Series 2006-OPTI;
and AMERICAN HOME MORTGAGE
SERVICING, INC., a corporation now known as
HOMEWARD RESIDENTIAL,

Defendants.

No. 3:12-cv-05775

TEMPORARY
RESTRAINING ORDER

This matter came on for hearing before the undersigned upon plaintiffs' Motion for Temporary Restraining Order. The plaintiffs seek an order restraining a pending nonjudicial foreclosure sale of their residence. Defendants U.S. Bank, N.A. and American Home Mortgage Servicing, Inc. (collectively, "Defendants") filed a limited opposition requesting that any temporary restraining order include a requirement that, pursuant to RCW 61.24.130, the plaintiffs make their monthly mortgage payments due under the promissory note to the court registry.

TEMPORARY RESTRAINING ORDER — 1

71045-0120/LEGAL24801968.2

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1 Based upon the record before it, including Defendants' non-opposition to the entry of
2 a Temporary Restraining Order, the Court finds and concludes that Plaintiffs' request for a
3 temporary restraining order should be granted.

4 As used below, the term "Property" means and refers to the Vancils' residence located
5 at 13732 Sunrise Drive, Bainbridge Island, Kitsap County, Washington 98110-4159,
6 Assessor's Tax Parcel No. 0225-021-054-2006, legally described as follows:

7 That portion of Government Lot 2, Section 2, Township 25
8 North, Range 2 East, W.M. described as follows:

9 Beginning at the center of said Section 2; thence South
10 88°40'48" East 30 feet to the East margin of Sunrise Drive;
11 thence North 1°03'10" East along said East margin 300 feet;
12 thence parallel to the South boundary of Government Lot 2,
13 South 88°43'26" East 710 feet; thence North 1°03'48" East
14 115.97 feet and the true point of beginning; thence South
15 88°43'26" East to the Government meander line; thence
16 Northerly along said meander line to the South line of a tract of
17 land sold to Charles E. Welsh and Charlotte W. Welsh, husband
18 and wife, under Auditor's File No. 1154963; thence along the
19 South line of said Welsh tract North 88°44'45" West 220 feet,
20 more or less, to a point North 1°03'48" East from the true point
21 of beginning; thence South 1°03'48" West 95 feet, more or less,
22 to the true point of beginning;

23 TOGETHER WITH second class tide lands as conveyed by the
24 State of Washington, situate in front of, adjacent to or abutting
25 thereof.

26 Being designated as Lot B of Short Plat No. 1498, recorded
27 under Auditor's File No. 7808020173; A.P.N. 022502-1-054-
20-06-002.


Based upon the Court's findings and conclusions, it is hereby

21 ORDERED, that defendants, and each of them, and their respective officers, agents,
22 servants, employees, and attorneys, and those persons in active concert or participation with
23 them who receive actual notice of this order, are hereby restrained from proceeding with any
24 Trustee's Sale of the Vancils' Property, which is presently scheduled for October 19, 2012;
25 and

26 FURTHER ORDERED that, per RCW 61.24.130, the plaintiffs will pay to the clerk of
27 the court every thirty days beginning on November 1 the sums that would be due on the

1 obligation secured by the Deed of Trust if the Deed of Trust was not being foreclosed;
2 specifically, the periodic payment of principal, interest, and reserves due under the Deed of
3 Trust, which amount is \$5652.50. Should the plaintiffs fail to make the required payments in
4 a timely manner, this order shall automatically dissolve, and there shall be no further restraint
5 on Defendants proceeding with the foreclosure sale.

6 DATED this 15 day of October, 2012.

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10 Hon. Benjamin H. Settle
11 United States District Judge
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